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*Attorneys for Irving H. Picard Trustee for
the Substantively Consolidated SIPA liquidation
of Bernard L. Madoff Investment Securities LLC
and Chapter 7 Estate of Bernard L. Madoff*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

No. 08-01789 (CGM)

SIPA LIQUIDATION

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Substantively
Consolidated SIPA Liquidation of Bernard L.
Madoff Investment Securities LLC and the Chapter
7 Estate of Bernard L. Madoff,

Plaintiff,

v.

BANK HAPOALIM B.M., BANK J. SAFRA
SARASIN AG (as successor in interest to Bank
Hapoalim (Switzerland) Ltd.), and BANK SAFRA
SARASIN (LUXEMBOURG) SA (as successor in
interest to Bank Hapoalim (Switzerland) Ltd.),

Defendants.

Adv. Pro. No. 12-01216 (CGM)

**DECLARATION OF KEITH R. MURPHY
IN SUPPORT OF THE TRUSTEE'S OPPOSITION
TO DEFENDANTS' MOTION TO DISMISS THE COMPLAINT**

I, Keith R. Murphy, declare the following:

1. I am a partner with the law firm of Baker & Hostetler LLP, counsel to Irving H. Picard (the "Trustee"), as trustee for the substantively consolidated liquidation of Bernard L. Madoff Investment Securities LLC under the Securities Investor Protection Act, 15 U.S.C. §§78aaa *et seq.*, and the chapter 7 estate of Bernard L. Madoff.

2. I submit this Declaration in support of the Trustee's opposition to Defendants' motion to dismiss the complaint filed in the above-captioned proceeding.

3. Although several documents attached to this Declaration are stamped confidential, the Trustee's records indicate that the producing parties have de-designated the documents as not confidential under the Litigation Protective Order entered in this liquidation. *See SIPC v. BLMIS (In re BLMIS)*, Adv. Pro. No. 08-01789 (CGM) (Bankr. S.D.N.Y. June 6, 2011 & Sept. 17, 2003), ECF Nos. 4137 & 5474. In addition, all personal identifying information has been redacted.

4. Attached hereto as Exhibit A is a true and correct copy of an exemplar subscription agreement into Fairfield Sentry Limited ("Sentry") executed by Bank Hapoalim (Switzerland) Ltd. (CFSSAJ0004752).

5. Attached hereto as Exhibit B is a true and correct copy of an exemplar subscription agreement into Sentry executed by Bank Hapoalim B.M. (CFSSAO0028894).

6. Attached hereto collectively as Exhibit C is a true and correct copy of an exemplar subscription agreement into Kingate Global Fund, Ltd. ("Kingate Global") executed by Bank Hapoalim (Switzerland) Ltd. and related correspondence (09-01161-KGF-000333722; 09-01161-KGF-000333723).

7. Attached hereto as Exhibit D is a true and correct copy of correspondence evidencing investment by Bank Hapoalim B.M. into Primeo Select Fund (PIMSAA0020215).

8. Attached hereto as Exhibit E is a true and correct copy of Sentry's Information Memorandum dated July 1, 2000 (HSBSAE0001159.1).

9. Attached hereto collectively as Exhibit F is a true and correct copy of Sentry's Private Placement Memorandum dated August 14, 2006 and related correspondence (SECSEV2965649; SECSEV2965653 (appendix excluded due to size)).

10. Attached hereto collectively as Exhibit G is a true and correct copy of an exemplar redemption request and confirmation of request by Bank Hapoalim (Switzerland) Ltd. regarding Sentry (CFSSAM0032672; CFSSAI0004482). The Trustee is in possession of an additional six redemption requests sent by Bank Hapoalim (Switzerland) Ltd. regarding Sentry, which are available upon request.

11. Attached hereto collectively as Exhibit H is a true and correct copy of Kingate Global's Information Memorandum dated September 30, 1998 and correspondence evidencing receipt by Bank Hapoalim (Switzerland) Ltd. of the same (09-01161-KGF-000333735; AAMSAA0001397).

12. Attached hereto as Exhibit I is a true and correct copy of Primeo Select Fund Offering Memorandum dated April 25, 2007 (PIMSAA0082581).

13. Attached hereto collectively as Exhibit J is a true and correct copy of excerpts of a distribution agreement and side letter entered into by Poalim Asset Management (UK) Ltd. to market the Primeo Select Fund, and related correspondence and documentation (PIMSAA0002873; PIMSAA0002907; PIMSAA0002909; PIMSAA0002870).

14. Attached hereto collectively as Exhibit K are true and correct copies of

correspondence between Pioneer Funds Distributor, Inc. and Poalim Asset Management (UK) Ltd. or Bank Hapoalim B.M. (PIMSAA0080714; PIMSAA0021358; PIMSAA0020281; PIMSAA0018138).

15. Attached hereto as Exhibit L is a true and correct copy of an excerpt from the May 18, 2022 Hearing Transcript in *Picard v. Banque Syz & Co., S.A.*, Adv. Pro. No. 11-02149 (Bankr. S.D.N.Y.).

Pursuant to 28 U.S.C. § 1746, I hereby declare under penalty of perjury that the foregoing statements are true and correct.

Dated: June 9, 2022
New York, New York

By: /s/ Keith R. Murphy
Keith R. Murphy